

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 794.1

FIRST-TO-WORK PROGRAM

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Historical Note: Chapter 17-794.1 is based substantially upon chapter 17-794, Job Opportunity and Basic Skills (JOBS) Training Program. [Eff 10/04/90; am 04/22/93; am 09/22/06; R 6/11/07]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-794.1-1 Program description. The First-to-Work Program (FTW), authorized by 42 U.S.C. §§601-618, is an employment and training program with support services administered by the department to assist needy families with children to work toward becoming economically self-sufficient. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §§346-261 and 346-275; 45 CFR §§261, et seq.)

§17-794.1-2 Purposes. The purposes of this chapter are to:

- (1) Establish the requirements for participation in the First-to-Work program, and the sanctions for failure or refusal to participate in the program; and
- (2) Assure that eligible needy families with children ultimately obtain paid employment

that will avoid long-term welfare dependency. To accomplish this purpose, the FTW program is intended to:

- (A) Require and enable recipients of Aid to Families with Dependent Children program to fulfill their responsibilities to support their children by preparing for, accepting, and retaining employment;
- (B) Provide individuals with the opportunity to acquire the education and skills necessary to obtain employment;
- (C) Provide necessary support services, so that AFDC recipients can participate in the FTW program and accept employment; and
- (D) Coordinate services at all levels of government and with private non-profit and for-profit employers in the community to make a wide range of services available, especially for persons at risk of long-term welfare dependency, and to maximize the use of existing resources. [Eff 6/11/07]
(Auth: HRS §346-14) (Imp: HRS §346-261; 45 CFR §§261, et seq.)

§17-794.1-3 Definitions. For the purposes of this chapter:

"Actual hours" means the number of hours an individual has performed in a work activity that are verified by the department.

"Adult recipient" means a person other than a dependent child (unless the child is the minor custodial parent of another dependent child) whose needs are met, in whole or in part, with payments of AFDC.

"Aid to families with dependent children" or "AFDC" means the financial assistance and non-assistance programs administered by the DHS-BESSD under 42 U.S.C. §§601-619, and section 346-14, Hawaii Revised Statutes.

"Assistance unit" means persons whose needs, income, and assets are considered in determining

eligibility for and the amount of financial assistance payment.

"Barrier" means any physical, health, or social conditions, including individual or family circumstances, which interfere with the person's ability to participate in the FTW program.

"Basic literacy level" means a literacy level that allows a person to function at a level equivalent to at least grade 8.9.

"Benefit, Employment and Support Services Division" or "BESSD" means the benefit, employment and support services division of the department.

"Case management" means a process through which individuals are provided with necessary support and opportunities to access needed and appropriate services throughout the period of participation in FTW, and includes monitoring, tracking, and reporting on the participants' progress during participation.

"Child" means any person who has not reached the age of eighteen.

"Child care" or "day care" means those situations in which a caregiver has agreed to assume the responsibility for the child's supervision, apart from and in the absence of the child's parent or guardian, for any part of a twenty-four hour day.

"Community service program" or "CSP" means structured programs in which AFDC recipients perform work for the direct benefit of the community under the auspices of public agencies or private non-profit organizations.

"Community work experience program" or "CWEP" or "work experience" means a work activity, performed in return for AFDC that provides an individual with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment.

"Component" means the education, training, and job placement programs and services available under this chapter.

"Core work activities" means the following work activities: unsubsidized employment, subsidized employment, CWEP, OJT, job search and job readiness assistance, CSP, VET, and providing child care services to an individual who is participating in a community

service program.

"Custodial parent" means a parent who has the legal right to the physical custody of a child, either under the provisions of a state law granting custody, or under the provisions of a court order granting custody of the child to one of its parents in preference over the other parent.

"Department" or "DHS" means the department of human services, State of Hawaii.

"Departmental designee" means any case manager, social worker, employment counselor, supervisor, or any other person assigned by the department to provide case management services to the FTW participants.

"Employability plan" means a written plan for the FTW participant that sets forth the participant's vocational strengths, and the educational, training, and employment activities to be undertaken by the participant to achieve the goal of financial self-sufficiency.

"Employed" means engaged in an activity in exchange for wages or salary.

"Enrollee" means a person who has been selected for the FTW program and is involved in activities that are preparatory to participation in program components.

"Federal Poverty Limit Guidelines for Hawaii" or "FPL" means the poverty guidelines that are updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. §9902(2).

"First-To-Work" or "FTW" means the education, training, employment, and support services programs administered by the department.

"FTW pool" means individuals who are awaiting selection into the FTW program.

"Full-time employment" means gainful employment of thirty hours or more per week.

"Full-time participation" means participation meeting the work requirements set forth in the employability plan that shall be not less than the mandatory requirements of 42 U.S.C. §607.

"Gainful employment" means work available at the time an individual wants to become employed and pays at least minimum wage for full-time employment.

"Good or satisfactory progress" means a standard

of progress developed either by the State or by the educational institution or program in which the recipient is enrolled. In addition, good or satisfactory progress must include both a qualitative measure of progress, such as grade point average, as well as a quantitative measures, such as a time frame within which a participant is expected to complete such education.

"Good standing" means satisfactorily meeting all requirements of the FTW program.

"Job skills training", "job skills training directly related to employment", or "JST" means training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.

"Limited English proficiency" or "LEP" means limited ability in speaking, reading, writing, or understanding the English language by a person whose native language is a language other than English or by a person who lives in a family or community environment where a language other than English is the dominant language.

"Multi-disciplinary assessment" means a multi-faceted approach to assessing health, psychological and social barriers of the individual and the family that may affect the FTW enrollee's readiness and ability to participate in employment training activities.

"On-the-job-training" or "OJT" means training in the public or private sector that is given to a paid employee while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job.

"Other approved work activities" means the following work activities: JST, education directly related to employment, and satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence.

"Parent" means a person who can establish a parent and child relationship by providing proof of: (1) having given birth to a child; (2) marriage to the natural mother when the child was born or within three hundred days after the marriage was terminated; (3) adoption;

(4) adjudication; or (5) self-declaration as specified in section 17-656.1-8.

"Participant" means an individual who has completed preparatory activities and is scheduled to engage in a FTW program component.

"Postsecondary education" means a program of instruction offered by an accredited or certified postsecondary institution and approved by the FTW program for participants.

"Sanction" means an action taken by the AFDC program against an individual, and their assistance unit who, without good cause, fails or refuses to participate in the program or accept employment, or terminates employment or reduces earnings.

"Satisfactory attendance" means regular attendance, in accordance with the requirements of the secondary school or course of study at a secondary school, or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.

"Self-employment" means receiving income directly from one's own business, trade, or profession rather than earning a specified salary or wages from an employer.

"Self-employment hours" means the number of hours derived by dividing the individual's self-employment net income (gross income minus business expenses) by the federal minimum wage.

"Self-sufficient employment" means employment equivalent to or more than one hundred per cent of the FPL for the family size of the custodial parent.

"Subsidized employment" means full- or part-time employment in the public or private sector for which the employer receives a subsidy from AFDC or other public funds to offset some or all of the wages and costs of employing an AFDC recipient.

"Support services" or "supportive services" means crisis intervention, counseling, case management, and support activities, including but not limited to, child care subsidy payments, work related expenses, and transportation expenses provided by the department to enable individuals to participate in the FTW program.

"Temporary Assistance for Needy Families" or

"TANF" means the financial assistance and non-assistance programs administered by the DHS-BESSD under 42 U.S.C. §§601-619.

"Temporary Assistance for Other Needy Families" or "TAONF" means the financial assistance and non-assistance programs administered by the DHS-BESSD under section 346-14, Hawaii Revised Statutes.

"Universal engagement" means that every able-bodied recipient is engaged in efforts toward self-sufficiency while he or she is receiving AFDC.

"Unsubsidized employment" means full- or part-time employment in the public or private sector that is not subsidized by AFDC or any other public program. Unsubsidized employment also includes self employment.

"Vocational educational training" or "VET" means organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations requiring training other than a baccalaureate or advanced degree. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §§346-261 to 346-276; 45 CFR §§260.30 to 260.33, §§261, et seq.)

§17-794.1-4 Program administration. (a) The department shall be responsible for the administration or supervision of the FTW program.

(b) Decision-making with regard to individual participants in the program may be performed by an organizational entity other than the department, provided the entity does not have the authority to review, change, or disapprove the department's administrative decision or otherwise substitute its judgment with regard to the application of policies, rules and regulations promulgated by the department.

(c) The department may enter into contracts with government agencies, or private non-profit or for-profit organizations to carry out the provisions of this chapter. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §§346-273 to 346-276; 45 CFR §§261, et seq.)

§17-794.1-5 Work eligible individual (WEI) and

other work eligible individual (OWEI). (a) Work eligible individual (WEI) means an adult or minor head-of-household receiving assistance under AFDC, or a non-recipient parent living with a child receiving assistance unless the parent is:

- (1) A minor parent and not the head-of-household or spouse of the head-of-household;
- (2) An alien who is ineligible to receive assistance due to his or her immigration status;
- (3) A recipient of Supplemental Security Income (SSI); or
- (4) A parent providing care for a disabled family member living in the home, who does not attend school on a full-time basis, provided that the need for such care is supported by medical documentation.

(b) Other work eligible individual (OWEI) means an adult or minor head-of-household who is:

- (1) Unable to engage in substantial gainful employment as defined by the work participation requirements of the Social Security Act, 42 U.S.C. §607, at a job for which he or she is equipped by education, training, or experience, for a period of more than thirty days from the onset of an illness, incapacity, or disability due to a physical or mental impairment or substance abuse, as determined by a licensed physician or psychologist;
- (2) A domestic violence victim who meets the criteria established in section 17-656.1-20(a) or (b); or
- (3) Any other adult in an assistance unit that contains a domestic violence victim who meets the criteria established in section 17-656.1-20(a) or (b).

(c) All work eligible individuals and other work eligible individuals, except for OWEI sixty-five years of age and older, shall be required to participate in the program to the extent that resources permit.

(d) The department shall not be required to provide FTW services to all eligible AFDC recipients, if necessary resources are not available.

[Eff 6/11/07] (Auth: HRS §346-14) (Imp: 45 CFR §261.2(n))

§17-794.1-6 Coordination and consultation. (a) The department shall coordinate FTW program services, including child care and support services, with related services provided by other agencies.

(b) The department shall coordinate FTW program activities with programs under the Workforce Investment Act (WIA) of 1998, 42 U.S.C. §§2801-2945, and with any other relevant employment, training, and education programs within the State. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-273; 45 CFR §§261, et seq.)

§17-794.1-7 Contracting authority. (a) The department shall carry out the FTW program directly or through arrangements or contracts with governmental agencies, or private non-profit or for-profit organizations.

(b) Arrangements and contracts may cover any service or activity, including but not limited to case management, job development, issuance of support services payments, outreach, information, and referral to implement the FTW program. Contracted services shall:

- (1) Be consistent with the provisions of section 17-794.1-4; and
- (2) Be services that will enhance participants' ability to prepare for, accept, and retain employment. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-274; 45 CFR §§ 261, et seq.)

§17-794.1-8 Confidentiality. (a) The rules of confidentiality shall be in accordance with chapter 17-601.

(b) Use or disclosure of information shall be limited to employment related activities, job training, education, barrier reduction services, job development, job placement, or provision of support services to

enrollees and participants in the FTW program.
[Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-10)

§17-794.1-9 Geographical location. The FTW program shall be available on a statewide basis, subject to availability of funds. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: 45 CFR §§261, et seq.)

§§17-794.1-10 to 17-794.1-12 (Reserved)

SUBCHAPTER 2

PROGRAM OPERATION

§17-794.1-13 Intake. (a) Enrollees for the FTW program shall be selected from the FTW pool which contains all individuals referred for participation by the AFDC program. Priority for selection shall be based on individuals who fall within the target population as specified in section 17-794.1-5.

(b) Enrollees selected for the program shall be required to participate in the intake interview. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: 45 CFR §§261, et seq.)

§17-794.1-14 FTW orientation. (a) Enrollees shall be required to participate in the FTW program orientation session.

- (b) FTW orientation may provide information on:
- (1) Available program components, activities, and support services for which individuals in the program are eligible;
 - (2) Rights and responsibilities of enrollees and participants; and
 - (3) The department's obligations and responsibilities to enrollees and participants in the program. [Eff 6/11/07] (Auth: HRS §346-14) (Imp:

45 CFR §§261, et seq.)

§17-794.1-15 Assessment. (a) The department may require educational testing to determine the enrollee's need for basic education, general educational development (GED) or its equivalent, or remedial educational assistance.

(b) The department may conduct a health and psycho-social assessment of the enrollee and the family which shall include a review of the enrollee's personal and family circumstances, the needs of the children in the family, and child care and supportive services needs, and may include a barrier assessment if it is deemed appropriate.

(c) The department shall conduct an employability assessment of each enrollee in the program which shall include an assessment or evaluation of the enrollee's:

- (1) Educational level;
- (2) Past work history;
- (3) Prior work experiences;
- (4) Avocation, interest, and values;
- (5) Abilities, proficiencies, and skills deficiencies; and
- (6) Other factors which affect the enrollee's employability. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-264; 45 CFR §261.11)

§17-794.1-16 Barrier reduction planning. (a) The department may engage in barrier reduction planning for each enrollee in the program. The barrier reduction plan may:

- (1) Be based on the health and psycho-social assessment of the enrollee and the family, the needs of children in the family, and child care and supportive services needs of the enrollee and the family;
- (2) Be developed in consultation with and be agreed to or approved by the enrollee;
- (3) Reflect the preferences of the enrollee to the maximum extent practicable;
- (4) Be responsive to the needs of the enrollee and family members;

- (5) Identify barriers that will interfere with the enrollee's participation in program activities;
- (6) Specify support services that will be provided by the department to address the removal of barriers;
- (7) Specify tasks to be performed by the enrollee; and
- (8) Specify time frames and schedules for accomplishing the tasks.

(b) The department may engage in barrier reduction planning for enrollees in the program who are in need of a substance abuse treatment, mental health treatment, or rehabilitation services as part of the job readiness activities.

(c) An enrollee who enters into a barrier reduction plan shall be required to comply with all conditions set forth in the plan and shall be subject to section 17-794.1-39.

(d) Final approval of the barrier reduction plan shall rest with the department. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §§346-263, 346-264; 45 CFR §§261, et seq.)

§17-794.1-17 Employability plan. The department shall develop an employability plan for each enrollee who becomes a participant in the program. The employability plan may:

- (1) Be based on the employability assessment of the participant;
- (2) Be developed in consultation with the participant;
- (3) Be consistent with the participant's interests, values, and abilities;
- (4) Reflect the preferences of the participant, to the maximum extent practicable;
- (5) Identify the participant's employment objectives;
- (6) Use appropriate program resources and available local employment opportunities;
- (7) Specify tasks that will be conducted or coordinated by the department to assist the participant to achieve the employment

- objective;
- (8) Specify activities and tasks that will be undertaken by the participant to achieve an objective of universal engagement and, ultimately, employment; and
 - (9) Specify time frames and schedules for accomplishing tasks and activities.
- [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-266; 45 CFR §261.12)

§17-794.1-18 Review of FTW program requirements with participants. (a) The participant shall be informed about the FTW program requirements by the department. The information may include, but is not limited to, the following:

- (1) Purpose of the FTW program;
- (2) Participant's universal engagement obligation for participation under the program;
- (3) Length of participation in the program, including the number of hours of participation per week and reporting requirements; and
- (4) Educational, training, and employment activities, and the support services, including child care, to be provided by the department.

(b) Each participant shall acknowledge that the participant received, reviewed, and understood the participant's participation requirements under the FTW program.

(c) Each participant shall be given assistance needed to review and understand the requirements.

[Eff 6/11/07] (Auth: HRS 346-14) (Imp: HRS §346-267; 45 CFR §§261, et seq.)

§17-794.1-19 Case management services. The department may provide case management services to support and strengthen the individual's capacity to become economically self-sufficient by facilitating access to resources and opportunities. Case management activities may include but are not limited to the following:

- (1) Assisting the individual and the family to achieve universal engagement and obtain services needed to assure compliance with program requirements;
- (2) Facilitating the individual's placement in appropriate activities or services and access to activities and programs through referrals to appropriate services;
- (3) Conducting assessments of the individual's use of services;
- (4) Facilitating communication between the individual and service providers;
- (5) Providing encouragement and support;
- (6) Monitoring and tracking the individual's progress to ensure receipt of required assistance in a timely and effective manner; and
- (7) Participating in administrative hearings involving FTW enrollees and participants pursuant to chapter 17-602.1. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-267; 45 CFR §§261, et seq.)

§§17-794.1-20 to 17-794.1-22 (Reserved)

SUBCHAPTER 3

PROGRAM COMPONENTS

§17-794.1-23 Unsubsidized employment. (a) The department may require full- or part-time participation in an unsubsidized employment component.

(b) Activities under this component shall include but are not limited to:

- (1) Employment with a private for-profit employer;
- (2) Employment with a private non-profit employer;
- (3) Employment with a government agency;
- (4) Employment supported by the Work Opportunity Tax Credit (WOTC) and the Welfare-to-Work Tax

Credit (WWTC); and

(5) Self-employment.

(c) The department may pay for costs of child care, transportation, and other support services, provided funds are available. [Eff 6/11/07] (Auth: HRS §346-14) (Auth: HRS §346-263; 45 CFR §261.2(b))

§17-794.1-24 Subsidized employment. (a) The department may require full- or part-time participation in a subsidized employment component.

(b) Activities under this component shall include but are not limited to:

- (1) Employment with a private for-profit employer;
- (2) Employment with a private non-profit employer;
- (3) Employment with a government agency; and
- (4) Participation in Americorps, Volunteers in Service To America (VISTA), or private volunteer organizations, if the participants are paid a stipend or wages for the services rendered.

(c) The department may pay for costs of child care, transportation, and other support services, provided funds are available.

(d) The department may enter into an agreement, with private sector employers, to place AFDC recipients in a subsidized employment and negotiate both wages and appropriate tax reimbursements based on the type of employment offered.

(e) Participants who become ineligible for AFDC shall remain FTW participants for the duration of the subsidized employment. [Eff 6/11/07] (Auth: HRS §346-14) (Auth: HRS §346-263; 45 CFR §261.2(c))

§17-794.1-25 Community work experience program (CWEP). (a) The department may place individuals in the CWEP to improve employability of individuals if sufficient private sector employment is not available. CWEP may be authorized if a WEI is unable to find unsubsidized employment, or is not prepared for

available employment.

(b) CWEP shall provide work experience and training through placement with a public agency or a private non-profit.

(c) The maximum number of hours an individual is required to participate in the program is determined by the number of hours which would result from dividing the total sum of a family's monthly AFDC grant and food stamp benefit amounts by the greater of the federal or state minimum wage.

(d) CWEP placements and assignments shall take into account the individual's prior training, experience, and skills.

(e) A reassessment and revision of the individual's employability plan shall be made at the conclusion of each assignment, if necessary, and after each six months of participation in the program, or as otherwise appropriate.

(f) CWEP shall not be used to fill established, unfilled position vacancies in accord with section 407(f)(2) of the Social Security Act.

(g) CWEP activity shall be supervised by an employer, work site sponsor, or other responsible party daily.

(h) Job search, job readiness activities, and vocational educational training shall not be considered a part of CWEP.

(i) The department may pay for costs of child care, transportation, and support services for participants in a CWEP, provided funds are available.
[Eff 6/11/07] (Auth: HRS §346-14) (Auth: HRS §346-263; 45 CFR §261.2(e))

§17-794.1-26 On-the-job-training (OJT). (a) The department may arrange to have a participant hired by a private or public employer and, while engaged in productive work, receive training that provides knowledge or skills essential to the full and adequate performance of that job.

(b) The department shall use available resources in the community for OJT placements for FTW participants.

(c) The department may enter into a contract to

reimburse the OJT employer for providing training and additional supervision to the participant.

(d) Participants in OJT shall be compensated by the employer at the same rates as similarly situated employees or trainees, including benefits and periodic increases, and not less than federal or state minimum wage law.

(e) Wages paid to participants in OJT shall be considered to be earned income.

(f) OJT participants who become ineligible for AFDC shall remain FTW participants for the duration of the OJT.

(g) OJT activity shall be supervised by an employer, work site sponsor, or other responsible party daily.

(h) The department may pay for costs of child care, transportation, and supportive services for participants in OJT, provided funds are available.
[Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-263; 45 CFR §261.2(f))

§17-794.1-27 Job search and job readiness assistance. (a) The department may offer a job search program as a component of the FTW program.

- (1) The job search activities may include making contact with potential employers, whether by telephone, in person or via Internet, to learn of suitable job openings, applying for vacancies, and interviewing for jobs; and
- (2) The job search program may serve participants through either individual or group job-seeking activities.
 - (A) Individual job search includes counseling, development of job-seeking skills, information dissemination and support on a one-to-one basis; and
 - (B) Group job search includes the provision of counseling and training in a group setting, for example through Job Club, where participants are taught job-seeking skills, and may include a phone bank from which participants contact potential employers.

(b) The department may place participants in a job readiness activity administered by any agency or organization under contract with the department. The job readiness assistance may comprise of two types of activities, either separately or as a combination:

- (1) Preparation necessary for an individual to seek or obtain employment. This includes but is not limited to activities such as the following:
 - (A) Preparing a resume;
 - (B) Preparing a job application;
 - (C) Training in interviewing skills;
 - (D) Instruction in work place expectations, including but not limited to instruction on appropriate attire and behavior on the job;
 - (E) Training in effective job seeking, including but not limited to career exploration activities; and
 - (F) Life Skills training, including but not limited to self-esteem building, home, family, and budget management skills; and
- (2) Placement in substance abuse treatment, mental health treatment, or rehabilitation activities for those individuals who are otherwise employable. The treatment or therapy must be determined to be necessary as certified by a qualified medical or mental health professional.

(c) The following activities shall not be considered part of the job search and job readiness assistance as they do not constitute work or direct preparation for work:

- (1) Child's dental checkups, immunization, and school attendance;
- (2) Parenting skills training;
- (3) Participation in Head Start;
- (4) Remedial education;
- (5) English as a Second Language (ESL);
- (6) Arranging for transportation or child care;
- (7) Removal of tattoos;
- (8) Payment of traffic citations;

- (9) Expungement of criminal records;
- (10) Attending driver's education;
- (11) Attending general educational development classes;
- (12) Applying for government benefits; and
- (13) Other similar activities that do not have a direct connection to finding or preparing for employment.

(d) The department may allow combining of the job search and job readiness activities with other allowable educational, training, or employment activities designed to improve the individual's employability.

(e) Job search and job readiness assistance shall not be treated as an activity under FTW if the participant has participated in such job search for four consecutive weeks or a total of six weeks in a federal fiscal year.

(f) Job search and job readiness assistance participants shall be supervised on an on-going basis, no less frequently than daily.

(g) The department may pay for child care, transportation, and other supportive services for participants in structured job search and job readiness activities, provided funds are available. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-263; 45 CFR §261.2(g))

§17-794.1-28 Community service programs (CSP).

(a) The department may place individuals in the CSP to improve employability of individuals not otherwise able to obtain employment.

(b) CSP shall provide work experience and training through placement with a public agency or private non-profit projects which serve a useful public purpose in fields such as, but not limited to, health, social services, environmental protection, education, urban and rural redevelopment, welfare, recreation, public facilities, refurbishing of publicly assisted housing, public safety, and child care.

(c) CSP shall include structured activities that:

- (1) Provide a community service; and

- (2) Improve the employability of participants.
- (d) CSP activities may include, but are not limited to, the following:
 - (1) Work performed for a school (e.g., serving as a teacher's aide);
 - (2) Work performed for a Head Start program (e.g., helping as a parent volunteer);
 - (3) Work performed for a church (e.g., preparing meals for the needy);
 - (4) Work performed for a public agency or a private non-profit agency (e.g., providing clerical support);
 - (5) Court ordered community service; and
 - (6) Participation in Americorps, Volunteers in Service To America (VISTA), or private volunteer organizations, as long as there is no payment of a stipend or wages for the services rendered.
- (e) CSP activities exclude, for example, the following activities:
 - (1) Substance abuse treatment program;
 - (2) Mental health treatment;
 - (3) Family violence counseling;
 - (4) Life skills classes;
 - (5) Parenting classes;
 - (6) Job readiness instruction;
 - (7) Caring for a disabled household member; and
 - (8) Other program components under this subchapter.
- (f) The department shall take into account, to the extent possible, the prior training, experience, and skills of a recipient in making appropriate community service assignments.
- (g) For CSP placements subject to the Fair Labor Standards Act (FLSA) of 1938, 29 U.S.C. §201, et seq., the maximum number of hours an individual is required to participate in the program is determined by the number of hours which would result from dividing the total sum of a family's monthly AFDC grant and food stamp benefit amounts by the greater of the federal or state minimum wage.
- (h) CSP activity shall be supervised by an employer, work site sponsor, or other responsible party

on an on-going basis, no less frequently than daily.

(i) The department may pay for costs of child care, transportation, and support services for participants in a CSP component, provided funds are available. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-263; 45 CFR §261.2(h))

§17-794.1-29 Vocational educational training (VET). (a) The department may place a participant in VET programs to prepare participants for a specific trade, occupation, or vocation.

(b) VET may include:

- (1) Basic and remedial education instruction under the VET if it is part of the VET requirements or curriculum;
- (2) Basic education if it is required by the employer prior to the start of an employment; or
- (3) A certificate, associate degree, or course work connected to a specific or potential employment regardless of its association with a baccalaureate degree, e.g., nursing training, accounting, teaching, etc.

(c) Vocational educational training shall be administered by education or training organizations, which may include, but are not limited to:

- (1) Vocational-technical schools;
- (2) Community colleges;
- (3) Postsecondary institutions;
- (4) Proprietary schools;
- (5) Non-profit organizations; and
- (6) Secondary schools that offer vocational education.

This may include distance learning opportunities via internet or video conferencing.

(d) The duration of participation in VET programs shall not exceed twelve months with respect to any participant, except that for Grant Diversion participants the VET shall be limited to thirty days.

(e) VET programs exclude the following educational activities:

- (1) Education leading to a high school diploma, even if it includes a vocational track; and

- (2) Unsupervised homework time as part of the hours of participation in vocational educational training programs, provided that structured and monitored or supervised study sessions may count towards hours of participation if programs can document the hours of participation.

(f) VET shall be supervised on an on-going basis, no less frequently than daily.

(g) Participants shall make good or satisfactory progress in order for their hours to count as participation.

(h) Appropriate training slots may be purchased for participants, provided funds are available.

(i) The department may pay for costs of child care, transportation, and supportive services for participants in a VET program, provided funds are available. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-263; 45 CFR §261.2(i))

§17-794.1-30 Job skills training (JST). (a) The department may place a participant in a JST program administered by a public agency or a private organization to pursue employment goals consistent with the employability plan.

(b) Under this program, a participant will receive training in certain vocational areas that will enable the participant to perform the work requirements of a designated job.

(c) The JST program may:

- (1) Include both customized and general training to prepare an individual for employment, including literacy and language instruction, if needed for employment;
- (2) Be requested by an employer or industry; and
- (3) Have a direct connection between completing the training and starting the job.

(d) The JST program shall not:

- (1) Include barrier removal activities, such as substance abuse counseling and treatment; or
- (2) Include unsupervised homework time as part of the hours of participation in JST; provided

that structured and monitored or supervised study sessions may count towards hours of participation if programs can document the hours of participation.

(e) Participants may be allowed to pursue post-secondary education or training leading to a certificate, associate degree, or baccalaureate degree, if there is a direct connection between the certification or degree and a potential job. For example, the department may allow completion of a nursing certificate, associate degree, or baccalaureate degree.

(f) Participants shall make good or satisfactory progress in order for their hours to count as participation.

(g) Appropriate training slots may be purchased for participants, provided funds are available.

(h) JST shall be supervised on an on-going basis, no less frequently than daily.

(i) The department may pay for costs of child care, transportation, and supportive services for participants in a JST program, provided funds are available. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-263; 45 CFR §261.2(j))

§17-794.1-31 Education directly related to employment. (a) The department may allow participants who have not received a high school diploma or a certificate of high school equivalency, to attain a minimum level of education related to employment for a specific occupation, job, or job offer, which may include, but is not limited to:

- (1) Adult basic education;
- (2) English as a Second Language (ESL); or
- (3) General Educational Development (GED) or high school equivalency, where required as a prerequisite for employment by employers or occupation.

(b) Unsupervised homework time shall not be counted as part of the hours of participation for this activity; provided that structured and monitored or supervised study sessions may count towards hours of participation if programs can document the hours of

participation.

(c) Participants shall be supervised on an on-going basis, no less frequently than daily.

(d) Participants shall make good or satisfactory progress in order for their hours to count as participation.

(e) The department may pay for costs of child care, transportation, and supportive services for participants in this component, provided funds are available. [Eff 6/11/07] (Auth: 42 U.S.C. §§601-617; HRS §346-14) (Imp: HRS §346-263; 45 CFR §261.2(k))

§17-794.1-32 Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence. (a) The department may require participants who have not completed secondary school or received a certificate of general equivalence, to show satisfactory attendance at a secondary school or a course of study leading to a certificate of general equivalence.

(b) This component does not include other related educational activities, such as adult basic education or language instruction unless it is linked to attending a secondary school or leading to a GED.

(c) Participants shall be supervised on an on-going basis, no less frequently than daily.

(d) Unsupervised homework time shall not be counted as part of the hours of participation for this activity; provided that structured and monitored or supervised study sessions may count towards hours of participation if programs can document the hours of participation.

(e) Participants shall make good or satisfactory progress in order for their hours to count as participation.

(f) The department may pay for costs of child care, transportation, and supportive services for participants in this component, provided funds are available. [Eff 6/11/07] (Auth: 42 U.S.C. §§601-617; HRS §346-14) (Imp: HRS §346-263; 45 CFR §261.2(l))

§17-794.1-33 Providing child care services to an individual who is participating in a community service program. The department may allow an AFDC recipient to provide child care to enable another AFDC recipient to participate in a community service program provided for in section 17-794.1-28. [Eff 6/11/07] (Auth: 42 U.S.C. §§601-617; HRS §346-14) (Imp: 45 CFR §261.2(m))

§17-794.1-34 Monitored study sessions. (a) The department may allow enrollees in any of the education or training components under this subchapter to participate in study sessions structured by the department to assist the individuals in completing their classroom and homework assignments.

(1) The study sessions shall be monitored or supervised; and

(2) The hours of participation shall be documented.

(b) The department may provide these study sessions through arrangements or contracts with the educational institutions or other entities.

(c) The department may pay for costs of child care, transportation, and supportive services for participants in this component, provided funds are available. [Eff 6/11/07] (Auth: 42 U.S.C. §§601-617; HRS §346-14) (Imp: 45 CFR §§261, et seq.)

§§17-794.1-35 to 17-794.1-36 (Reserved)

SUBCHAPTER 4

PARTICIPATION REQUIREMENTS

§17-794.1-37 Participation. (a) The Work eligible individual (WEI) and other work eligible individual (OWEI) shall comply with participation requirements including:

- (1) Intake;
 - (2) FTW orientation;
 - (3) Case management, including:
 - (A) Assessments;
 - (B) Development and implementation of plans for barrier reduction, support services, and employment; and
 - (4) Other requirements of this chapter.
- (b) WEI shall complete the required hours of work activity specified in the employability plan including a minimum number of core work activity hours and other approved work activities as defined in this chapter
- (1) The employability plan for a single custodial parent, or single caretaker relative, of a child less than six years of age, shall include a minimum number of work activity hours of twenty hours per week, of which a minimum of twenty hours per week shall be core work activities. The balance of the employability plan work hours can be satisfied with either core work activities or other approved work activities.
 - (2) The employability plan for a single custodial parent, or single caretaker relative, other than those referred to in paragraph (1), shall include a minimum number of work activity hours of thirty hours per week, of which a minimum of twenty hours per week shall be core work activities. The balance of the employability plan work hours can be satisfied with either core work activities or other approved work activities.
 - (3) The employability plan for a family with two WEI with a common child shall include a minimum number of work activity hours for a combined average of thirty-five hours per week, of which a minimum of thirty hours per week shall be core work activities. The balance of the employability plan work hours can be satisfied with either core work activities or other approved work activities. In addition, one of the WEI shall satisfy the conditions of paragraph (2).

- (4) The employability plan for a family with two WEI with a common child that receives federally funded child care assistance, shall include a minimum number of work activity hours for a combined average of fifty-five hours per week, of which a minimum of fifty hours per week shall be core work activities. The balance of the employability plan work hours can be satisfied with either core work activities or other approved work activities. In addition, one of the WEI shall satisfy the conditions of paragraph (2).

(c) For a WEI under twenty years old with no high school diploma or GED, the following may be used to satisfy the core work activity components in their employability plan:

- (1) Satisfactory attendance at a secondary school or the equivalent during the month; or
- (2) Education directly related to employment for an average of at least twenty hours per week during the month.

(d) For a married WEI under twenty years old with no high school diploma or GED, participation in the work activities described in subsection (c) counts as the greater of twenty hours or the actual hours of participation.

(e) For two-parent households where both parents are WEI under twenty years old, the requirements of subsections (b)(3) and (b)(4) are met if both WEI meet the requirements of subsection (c).

(f) A WEI shall be considered to have satisfied the minimum number of core work activity hours specified in the employability plan if the WEI participates in a work experience or community service program for the maximum number of hours per week that a state may require, determined by dividing the combination of the family's monthly TANF grant and food stamp allotment by the appropriate minimum wage under the minimum wage requirement of the Fair Labor Standards Act (FLSA) of 1938, 29 U.S.C. §201, et seq., Workforce Investment Act of 1998, 29 U.S.C. §2801, et seq.

- (g) OWEI shall be required to participate in the

FTW program to the extent possible as determined under this chapter and chapter 17-656.1.

- (1) An OWEI deemed to have a physical or mental impairment, due to substance abuse, under section 17-656.1-10.1 shall participate in the substance abuse treatment services (SATS).
 - (A) The department shall establish an individualized service plan (ISP) for each OWEI participating in SATS.
 - (B) The ISP shall specify the modality of treatment which shall include a planned regimen of professionally directed evaluation, treatment, case management, and other ancillary and special services.
 - (C) The ISP shall include work activities under subchapter 3 if the department determines that it is in the best interest of the participant to engage in work activities concurrently with SATS.
- (2) An OWEI deemed to be a domestic violence victim under section 17-656.1-20, shall participate in the domestic violence advocacy (DVA) services as provided in section 17-656.1-19.
 - (A) An individualized service plan (ISP) shall be established for each OWEI participating in DVA services.
 - (B) The ISP shall specify the necessary DVA services which shall include, but are not limited to, assessment and case management services.
 - (C) The ISP shall include work activities under subchapter 3 if the department determines that it is in the best interest of the participant to engage in work activities concurrently with DVA services.
- (3) An OWEI determined to have a physical or mental impairment under section 17-656.1-10.1 shall participate in the FTW program to the extent possible as determined under section 17-656.1-10.1(d).

(h) All participants in the FTW program must make good and satisfactory progress or maintain good standing.

(i) Failure to make good and satisfactory progress, or maintain good standing, or comply with the minimum number of hours of participation without good cause, as specified under section 17-794.1-40, shall be grounds for:

- (1) Sanctioning of work eligible individuals by the AFDC program under section 17-794.1-42; or
- (2) Discontinuing an individual from participating in the FTW program in a two-parent household provided that:
 - (A) The remaining WEI is meeting the participation requirements as described in subsections (b)(3) and (b)(4); and
 - (B) Discontinuance of the individual will not result in the household being unable to meet participation requirements described in subsection (b)(3) and (b)(4). [Eff 6/11/07] (Auth: 42 U.S.C. §§601-617; HRS §346-14) (Imp: 45 CFR §§261.31, 261.32, 261.60, and 261.61)

§17-794.1-38 Work or participation verification and documentation requirements. (a) The department shall implement the work or participation verification requirements in accordance with the Work Verification Plan (WVP) approved by the United States Department of Health and Human Services (DHHS) to determine the following:

- (1) How the work activity or component meets the relevant definitions in subchapter 3;
 - (2) How to determine the number of countable hours of participation for self-employed individuals; and
 - (3) What documentation will be needed or accepted to monitor participation and ensure that actual hours of participation are documented.
- (b) FTW participants shall comply with the

requirements of the federally approved WVP. [Eff 6/11/07] (Auth: 42 U.S.C. §§601-617; HRS §364-14) (Imp: 45 CFR §§261.60, 261.61, and 261.62)

§17-794.1-39 Conciliation. (a) The department shall establish a conciliation process to resolve disputes related to an individual's participation in the program.

(b) The conciliation process shall involve attempts between the individual and the departmental designee to resolve disputes and may include but is not limited to revision of the employability and support services plans.

- (1) Individuals who fail to comply with the requirements of this chapter shall be subject to the conciliation process.
- (2) The departmental designee shall initiate the conciliation process and work with the individual to resolve disputes.
- (3) The department shall make two attempts to contact the individual within five calendar days of the dispute which shall include a written notice and one of the following:
 - (A) Contact by telephone at the last known phone contact reported by the participant;
 - (B) Face-to-face contact during any scheduled or unscheduled visit; or
 - (C) Any other method of communication that would allow the department to expedite resolution of the dispute.
- (4) The individual shall have up to ten calendar days from the date of the written notice to provide verification for good cause for non-compliance.
- (5) The conciliation process shall end when:
 - (A) The department has made a determination of good cause and the individual agrees to participate in the program; or
 - (B) The individual and their assistance unit are referred to the AFDC program for sanction because:
 - (i) The department has made a

determination that there is no good cause;

- (ii) The individual, representing their assistance unit, chooses to waive the right to conciliation; or
- (iii) Ten calendar days from the date of notice has elapsed; whichever is earliest.

(c) The individual, and the assistance unit that the individual is a member of, shall not have the right to request an administrative hearing, as provided under chapter 17-602.1, during the conciliation process.
[Eff 6/11/07] (Auth: HRS §346-14) (Imp: 45 CFR §§250.36, 261.13, 261.14, 261.15, and 261.16)

§17-794.1-40 Good cause. (a) The department shall make a determination that good cause exists for an individual's non-compliance with this chapter when:

- (1) The individual is the single custodial parent personally providing care for a child under six months of age;
- (2) Child care for a child under six years of age is necessary for the individual to participate or continue participation in the FTW program or accept employment, and such care is not available;
- (3) The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income shall be determined as follows:
 - (A) The department shall determine the family's total projected gross income. The total projected gross income shall include, but is not limited to, earnings, unearned income, and cash assistance that would have been received if the individual had not refused or terminated employment;
 - (B) The department shall determine the total amount of necessary work-related expenses which would have been incurred if the individual had not refused or terminated employment. Work-related

expenses shall include, but is not limited to, mandatory payroll deductions, actual cost of child care, transportation expenses, and cost of meals;

- (C) The necessary work-related expenses shall be deducted from the family's total projected gross income;
- (D) The net income amount determined in subparagraph (C) shall be compared to the financial assistance the family received at the time the offer of employment is made; and
- (E) The department shall determine that there is a net loss of cash income when the net income amount determined in subparagraph (C) is less than the financial assistance the family received at the time the offer of employment is made.

(b) The department may consider other circumstances beyond the individual's control in determining whether there was good cause for non-compliance. Examples of circumstances beyond the individual's control include, but are not limited to:

- (1) Illness of the individual which is verified by a medical statement from a licensed physician or psychologist;
- (2) The individual's presence is required on a continual basis due to the illness of another household member and is verified by a medical statement from a licensed physician or psychologist;
- (3) The individual is experiencing a family crisis or change of individual or family circumstances, such as death of an immediate family member, the family is currently homeless, or the family experienced a natural disaster;
- (4) Unsafe or unfair employment situations or inappropriate assignments that the department determines would not lead to full-employment or self-sufficiency;
- (5) Self-employment that did not produce income

- equivalent to thirty hours per week or one hundred twenty hours per month of employment at the federal minimum wage after business expenses are deducted;
- (6) There is a breakdown in transportation arrangements with no ready access to alternate transportation;
 - (7) The individual ends a sporadic work relationship that does not offer a reasonable possibility for permanent full-time employment and the individual is available to work full-time; or
 - (8) The individual's failure was the result of being a victim of domestic violence as defined in section 17-656.1-2. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: 45 CFR §§250.35, 260.20, 260.30, and 261.10)

§17-794.1-41 Holidays and excused absence policy.

- (a) The department shall establish its holidays and excused absence policy in accordance with 45 CFR §261.60 and implement such policy in accordance with and through the federally approved TANF WVP.
- (b) Actual hours of participation may include hours missed due to holidays and excused absences.
- (c) Excused absences may be granted in any of the instances where the department can grant good cause under section 17-794.1-40 for non-compliance with requirements of this chapter. [Eff 6/11/07] (Auth: 42 U.S.C. §§601-617; HRS §346-14) (Imp: 45 CFR §261.60)

§17-794.1-42 Curing of sanctions. (a) An individual who fails to comply with the requirements of this chapter, and the assistance unit that the individual is a member of, shall be referred to the AFDC program for sanction.

(b) For the purpose of determining that a failure to comply has ceased, the individual or another adult member of the assistance unit shall:

- (1) Participate in the FTW activity to which the individual was previously assigned or an

activity designed by the department's FTW program staff to lead to full participation as follows:

- (A) When the activity is the intake, orientation, assessment, or case manager interview component, an adult member of the assistance unit shall complete the scheduled activity;
 - (B) When the activity is related to a program component under subchapter 3, an adult member of the assistance unit shall participate in the component or treatment service in accordance with section 17-794.1-37 for a two-week period; or
 - (C) When the activity is related to treatment services, the individual shall participate in the component or treatment service in accordance with section 17-794.1-37 for a two-week period;
- (2) Accept full-time employment and actually work for a minimum of two weeks; or
 - (3) Be eligible for an exemption from participation as specified in section 17-656.1-2, provided the individual has fulfilled the minimum sanction period requirement specified in chapter 17-656.1.

(c) When the individual or another adult member of the assistance unit successfully participates in a component described in subsection (b), the sanction shall terminate as of the day the individual begins participation in the component.

(d) When the individual or another adult member of the assistance unit accepts full-time employment and has worked for two weeks as described in subsection (b), the sanction shall terminate as of the day the individual begins employment. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: 45 CFR §§260.20, 260.30, 261.10, 261.12, and 261.14)

§§17-794.1-43 to 17-794.1-45 (Reserved)

SUBCHAPTER 5

SUPPORT SERVICES

§17-794.1-46 Eligibility. (a) The department may develop a support services plan for each enrollee or participant in the FTW program.

(b) The department may provide child care, within available resources, for a dependent child who is under age thirteen, physically or mentally incapable of caring for himself or herself as verified by a physician or a licensed or certified psychologist, or under court supervision in accordance with Title IV-E or Title XVI of the Social Security Act to the extent that the child care is necessary to permit the individual to:

- (1) Accept employment or remain employed;
- (2) Participate in an approved education or training activity under the FTW program including education or training components under subchapter 3, or in approved education or training consistent with criteria established by the department;
- (3) Participate in an employment-related activity consistent with the support services plan or employability plan; or
- (4) Participate in other approved activities to prepare the individual for participation in the FTW program.

(c) The department may provide, pay for, or reimburse transportation and ongoing work-related and training expenses which it determines are necessary to enable an individual to participate in approved FTW program activities under this chapter, including education or training provided under subchapter 3.

(d) The department may provide one-time rent support to AFDC recipients to secure and retain housing, within available resources, in an amount not to exceed two months rent, provided that:

- (1) The rent support is necessary to enable the

- AFDC recipient to accept or maintain employment;
- (2) The monthly rental amount shall not exceed sixty per cent of the household's available monthly income; and
 - (3) The rent support payment shall be paid only once, per lifetime of the household.
- (e) The department may provide, pay for, or reimburse one-time work-related expenses which are necessary for an individual to accept or maintain employment.
- (f) The department shall inform families requesting child care of their rights and responsibilities under this chapter and the department's child care services rules.
- (g) The department shall provide support services to OJT participants pursuant to section 17-794.1-26.
- (h) The department shall respond to requests for child care within a reasonable period of time, provided all eligibility requirements are met.
- (i) Changes in manner of payment are not subject to timely notice requirements unless they result in a discontinuation, suspension, reduction, or termination of benefits, or force a change in child care arrangements. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-265)

§17-794.1-47 Child care. (a) The department may provide child care services to assistance units to allow participation in the FTW program activities, provided funds are available. The activities include intake, orientation, assessment, support services and employability plan development, employment, and program components described in subchapter 3.

(b) A single custodial parent caring for a child under six years of age shall not be required to participate with the FTW program when the individual proves that the individual has a demonstrated inability, as determined by the department in accordance with 45 CFR §98.33(b), for one or more of the following reasons:

- (1) Unavailability of appropriate child care within a reasonable distance from the

- individual's home or work site;
 - (2) Unavailability or unsuitability of informal child care by a relative or under other arrangements; or
 - (3) Unavailability of appropriate and affordable formal child care arrangements.
- (c) Child care payments shall be made in accordance with the department's child care services rules.
- (d) The department may allow a supplemental payment of \$20 per day, not to exceed \$200 in any given month, for each child who is sick due to flu, common cold, or viral symptoms. The caretaker shall be required to submit a note from a licensed physician with request for a supplemental payment. The supplemental payment in this section shall be in addition to the regular child care reimbursement due or issued to the caretaker in accordance with the department's child care services rules.
- (e) The department shall track and monitor appropriateness of care, utilization of child care, and payments. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-268)

§17-794.1-48 Transportation. (a) The department may provide assistance with ground transportation expenses that are necessary to enable an individual to participate in the FTW program. Transportation expenses may include an allowance for the client to travel to and from:

- (1) FTW program activities, components, and employment; and
 - (2) Child care locations for drop-off and pick-up of a child or children.
- (b) Assistance with transportation costs shall be based on the following:
- (1) A determination that the transportation services are necessary;
 - (2) A comparison of the different modes of transportation available to the individual and the costs involved;
 - (3) The cost of transporting the child or children to the child care provider;

- (4) The most economical form of transportation;
and
- (5) Exceptions to paragraph (4) may be allowed if there are extenuating circumstances which would create hardships for the individual such as, but not limited to, the following:
 - (A) Hours of travel to and from home to child care provider and to job activity site; and
 - (B) Health or physical problems which preclude a certain mode of transportation.

(c) Transportation assistance may be provided through bus passes, mileage reimbursements, and other appropriate means of transportation to be determined by the department.

(d) The department may provide assistance with airfare cost on a limited basis, and as funds permit, to participants living on Molokai, or in West Hawaii to travel to another island to receive appropriate training not available in those locations. Departmental approval for assistance with this cost shall be based on the participant's employability plan and availability of employment at the participant's place of residence. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §§346-268 and 346-269; 45 CFR §§261, et seq.)

§17-794.1-49 One-time training and work-related expenses. (a) The department may provide one-time training and work-related expenses to a FTW participant to enable them to enter into full-time employment and exit from AFDC.

(b) Contingent upon availability of funds, allowable work-related items include:

- (1) Auto repair, not to exceed \$1,500;
- (2) Impound or towing fees to release an automobile, not to exceed \$300;
- (3) Repair of occupational equipment (includes fishing boat, sewing machine, etc.), not to exceed \$1,500;
- (4) Tools or equipment, or both, not to exceed

- \$1,500;
- (5) Display furniture (e.g., canvas tent and tables), not to exceed \$500;
- (6) Sample cases, not to exceed \$300;
- (7) Beepers or pagers, not to exceed \$200;
- (8) Books or manuals, not to exceed \$1,000;
- (9) Travel expense (to travel to accept a job), not to exceed \$750;
- (10) Beauty expenses or cosmetic expenses, or both, not to exceed \$500;
- (11) Eyewear, not to exceed \$300;
- (12) Protective clothing (includes shoes, headwear, gloves, coats, etc.), not to exceed \$1,000;
- (13) Other clothing (includes uniforms, suits, etc.), not to exceed \$750;
- (14) Certificates or licenses, not to exceed \$500;
- (15) Examinations and testing fees, not to exceed \$500;
- (16) Identification (passport, state identification, etc.), not to exceed \$150;
- (17) Union dues or initiation fees, not to exceed \$1,000;
- (18) Medical expenses not covered by medicaid, not to exceed \$2,000;
- (19) Dental expense not covered by medicaid, not to exceed \$1,500;
- (20) Automobile down-payment, not to exceed \$1,000; and
- (21) Automobile inspection fee to determine the fitness of the vehicle as a transportation, not to exceed \$500. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-270)

§17-794.1-50 Barrier reduction services. (a) The department may provide services to reduce barriers that prevent successful participation in the FTW program activities, including but not limited to:

- (1) Counseling for personal and family related problems; and
- (2) Health and social services to eligible individuals and families with identified needs.

(b) The department may also purchase the following specialized services, provided funds are available, and a determination has been made by the departmental designee that the services are needed to alleviate the barriers preventing successful participation in the FTW program activities:

- (1) Treatment services for psychiatric or psychological problems;
- (2) In- and out-patient substance abuse treatment services;
- (3) Parenting services; and
- (4) Domestic violence advocacy services. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-270)

§17-794.1-51 Transitional support services. The department may provide up to twelve months of transitional support services to former FTW program participants, provided the participants do not refuse such services. Services shall include but are not limited to:

- (1) Case management services designed to give the former FTW program participants a steady contact for assistance; and
- (2) Transportation services for the former FTW program participants to enable them to retain their full-time employment. This may include bus passes, mileage reimbursement, and reimbursement of costs for other means of transportation as approved by the department. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-272)

§17-794.1-52 Work incentive payments. (a) The department may provide a monthly work incentive to WEI and OWEI for participating in paid employment as provided in sections 17-794.1-23, 17-794.1-24, and 17-794.1-26, and meeting the minimum work participation requirements provided in section 17-794.1-37.

(b) Work incentive payments shall be made based on the following:

- (1) \$50 for forty hours (ten hours per week average) of paid employment during each month of participation for a one-time period of six consecutive months beginning with the initial month of payment for this work incentive. A participant shall not be eligible for this incentive payment once they have exhausted their six consecutive months;
- (2) \$100 for eighty hours (twenty hours per week average) of paid employment during each month of participation for a one-time period of six consecutive months beginning with the initial month of payment for this work incentive. A participant shall not be eligible for this incentive payment once the participant has exhausted the participant's six consecutive months;
- (3) \$150 for one-hundred twenty hours (thirty hours per week average) of paid employment during each month of participation; and
- (4) \$300 for one hundred sixty hours (forty hours per week average) of paid employment during each month of participation. [Eff 6/11/07]
(Auth: HRS §346-14) (Imp: HRS §346-271)

§§17-794.1-53 to 17-794.1-55 (Reserved)

SUBCHAPTER 6

OTHER PROVISIONS

§17-794.1-56 Projection of employment hours. (a) The department may project forward hours of employment for a six-month period. The projection of hours shall be based on current, documented, actual hours of unsubsidized employment (including self-employment), subsidized employment, and on-the-job training programs.

- (b) Where FTW participants are employed at the

time of entry into the FTW program, the FTW staff shall validate employment hours provided for in the current pay stub(s) or employer reports or other suitable documentation and project forward for a maximum of a six-month period.

(c) Where FTW participants initiate employment after entry into the FTW program, the FTW staff shall require the participant to complete a two-week period of employment in order to demonstrate work effort. The actual documented hours may be projected forward for a maximum of a six-month period once pay stub(s) or employer records or other suitable documents are available and validated.

(d) Where FTW participants submit more than one pay stub, the projection shall be based on the expected future number of employment hours, an average of the pay stubs for fluctuating hours, or will use the pay stub with higher hours to project the employment hours for a maximum of a six-month period.

(e) If, at any time during the six-month period, the FTW staff becomes aware of a change in the participant's work situation, the new actual hours must be documented and may be prospectively applied or projected for a new six-month period.

(1) If a participant reports a reduction or increase in hours of employment, new documentation shall be required from the client along with a re-determination of the actual average hours of participation.

(2) FTW participants that either acquire new employment or lose their current employment shall report the change in employment status within ten calendar days.

(f) Where FTW participants are self-employed, the FTW staff shall verify the employment activity through the general excise tax filing or documentation of invoices issued to and payments received from customers and a statement of earnings on a department-prescribed form documenting that participation hours have been met.

(1) The actual documented hours may be projected for a maximum of a six-month period once suitable documentation is available and validated.

- (2) The FTW staff shall calculate the actual hours of participation of a self-employed individual by dividing the individual's net income (gross income minus business expenses) by the federal minimum wage. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-34; 45 CFR §261.61(c))

§17-794.1-57 Reporting changes. (a) Participants shall report, within ten days of occurrence, any changes in circumstances which may affect the recipient's eligibility for continued services, including but not limited to:

- (1) Work activity site;
- (2) Loss of activity; and
- (3) Anticipated changes in the individual's situation which may affect the person's eligibility for continued services;

(b) Individuals receiving supportive services payments shall also report, within ten days, receipt of monetary assistance which duplicates FTW supportive services payments.

(c) Failure to report information as specified in this section, which may affect the recipient's eligibility for services or amount of cash assistance, shall be investigated by the department as suspected fraud.

(d) In situations where fraud is suspected, the provisions of chapter 17-604 shall apply.

(e) Recipients of child care subsidy payments shall comply with the mandatory reporting requirements provided for in the department's child care services rules.

(f) Participants who are subject to projection of employment hours shall submit documentation of actual hours of employment in accordance with section 17-794.1-56. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-34; 45 CFR §261.61(c))

§17-794.1-58 Overpayment and recoupment. (a) An overpayment occurs when a recipient receives payments

to which the person is not entitled.

(b) An overpayment made to a family or a provider currently receiving cash assistance for child care and supportive services shall be recovered through:

- (1) Repayment in cash, in full or in part, by the family or provider responsible for the overpayment to the department;
- (2) A mutually acceptable repayment schedule; or
- (3) A reduction in the amount payable to the family or provider in a subsequent month.

(c) Individuals subject to recovery of overpayment shall be provided written notice by the department stating:

- (1) The reasons, dates, and the amount of the alleged overpayment;
- (2) The method by which the proposed overpayment shall be recovered; and
- (3) The individual's right to request a fair hearing if the individual disagrees with the department's proposed action.

(d) When a family has both an overpayment and an underpayment, the overpayment and underpayment shall be offset one against the other in correcting the payment.

(e) Overpayment to:

- (1) Individuals may be recovered from the family which was overpaid, from individuals who were members of the family when overpaid, or from families which include members of a previously overpaid family; and
- (2) Providers shall be recovered through reduction in subsequent child care payments until the entire child care overpayment is recovered.

(f) When an overpayment is recovered from the family through a reduction in a subsequent child care payment, the amount recovered shall not exceed ten per cent of the department's payment.

(g) The department shall recoup overpayments as follows:

- (1) Child care overpayments may be recovered only from child care benefits, provided the client continues to be a FTW participant and receives child care benefits;
- (2) Supportive services overpayments may be

recovered only from supportive services benefits, provided the client continues to be a FTW participant and receives supportive services benefits;

- (3) Recoveries of child care and supportive services overpayment may be made from AFDC benefit payments, provided the recipient family voluntarily requests this method of repayment; and
- (4) Recovery of overpayments to former recipients shall be referred to the department's collections and recovery office.

(h) The department shall send monthly bills requesting payment until the entire overpayment amount is liquidated.

(i) If a family or child care provider, for whom a collection action has been initiated, fails to make a payment for any month in the calendar tax year, the department may refer debts exceeding \$25 to the comptroller of the State for a tax setoff as specified in chapter 17-606.

(j) If fraud is suspected in an overpayment situation, the department shall pursue the investigation of suspected fraud as specified in chapter 17-604. [Eff 6/11/07] (Auth: HRS §§346-14, 346-34, and 346-44) (Imp: 45 CFR §255.4)

§17-794.1-59 Notice of adverse action. (a) The department shall issue a timely notice to recipients in writing prior to initiating any adverse action to reduce, suspend, or terminate payments or services. Timely notice requires:

- (1) Mailing of a written notice at least ten days prior to the effective date of the adverse action; or
 - (2) Mailing of a written notice at least five days before referrals are made to the investigation office for probable fraud situations.
- (b) Written notice shall include statements of:
- (1) Action the department intends to take;
 - (2) Reasons for intended action;
 - (3) Departmental rules supporting the intended

action; and

- (4) The individual's right to request an informal review or an administrative hearing, or both, and the circumstances under which services or payments shall be continued if an administrative hearing is requested.

(c) Changes in manner of payment are not subject to timely notice requirements unless they result in a discontinuation, suspension, reduction, or termination of benefits, or force a change in child care arrangements. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: 45 C.F.R. §255.2)

§17-794.1-60 Administrative hearing request. (a) A recipient who is dissatisfied with the department's adverse action affecting the assistance claim shall be provided an opportunity for an administrative hearing in accordance with chapter 17-602.1.

(b) Every recipient shall be informed in writing at the time of entry into the FTW program, or at the time of any action affecting the individual's assistance claim, of the:

- (1) Individual's right to an administrative hearing;
- (2) Method for obtaining a hearing; and
- (3) Individual's right to present the administrative appeal independently or be represented by an authorized representative such as legal counsel, relative, friend, or any other person of the individual's choice. [Eff 6/11/07] (Auth: HRS §346-14(9)) (Imp: HRS §346-12)

§17-794.1-61 Job development and job placement component. (a) The department may provide job development and job placement services to all participants needing the assistance.

(b) Activities under this section shall include, but are not limited to:

- (1) Soliciting public or private employers for unsubsidized job openings or in discovering the openings;

- (2) Marketing participants; and
- (3) Securing job interviews for participants.
- (c) The department may pay for child care, transportation, and other supportive services to participants who are scheduled for job interviews, provided funds are available. [Eff 6/11/07] (Auth: HRS §346-14) (Imp: HRS §346-266)

§§17-794.1-62 to 17-794.1-66 (Reserved)